

22 July 1975

MEMORANDUM FOR: Deputy Director for Administration

SUBJECT : Meeting with Department of Justice  
on Freedom of Information Act

1. On 21 July 1975 a meeting was held in the office of Deputy Attorney General Antonin Scalia regarding Freedom of Information Act and the Third Agency Rule. Present from the Agency were [redacted] from DD/O; [redacted] from OGC; and [redacted] and the undersigned from the Office of Security. Present from the Bureau were [redacted] Mr. Scalia also called in Mr. Robert Saloschin, the attorney from the Justice Department most knowledgeable of Freedom of Information Act case law.

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2. The question raised with the Deputy Attorney General was our problem with the Third Agency material, primarily FBI reports in connection with FOIA requests. It was explained how we handled FOIA requests in the Agency and our desire to control the release of any information of ours in connection with FOIA.

3. Mr. Scalia, without researching the problem, was of the opinion that the Agency's definition of files is not acceptable and would not be supported in a court of law. He felt that we could not disclaim FBI reports in our possession as part of our files, nor could we ignore the presence of newspaper clippings. He agreed that the Agency could insist on not releasing any of its classified information and felt that there was ample direction for this in the Attorney General Blue Book on this subject. He further indicated that perhaps FBI reports which are stamped "Property of the FBI" might be treated as classified information, particularly if the report was one generated as a result of EO 10450. He was less optimistic that the same would apply in cases that were neither classified nor similarly stamped.

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4. He suggested that the FBI and the CIA confer on all of these cases before answering and decide whether the FOIA answer should be referred to the FBI or handled by the Agency.

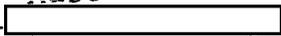
5. The meeting was informal and we got nothing in writing from the Deputy Attorney General directing us to change our policies and procedures. It is my understanding that the DD/O will raise this problem at a future IRC meeting. It is apparent to me, however, that we will have to change our policies and procedures, and that the changes will require the addition of a substantial amount of manpower to handle this problem. It appears to me that this office, from a practical standpoint, will be required to duplicate and forward to the FBI, FBI reports in our possession so that they may determine what action to take. This will require additional time, additional research, and additional clerical assistance, but in view of the Deputy Attorney General's advice, I feel this will have to be done in the future.

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*for* Charles W. Kane  
Director of Security

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